

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Adopting
Rules To Account For The Consideration
Received By Regulated California Electric
And Natural Gas Utilities Under A
Settlement With El Paso Natural Gas
Company, et al.

Rulemaking 03-07-008
(Filed July 10, 2003)

**SCOPING MEMO AND RULING
OF ASSIGNED COMMISSIONER**

Pursuant to Article 2.5 of the Commission's Rules of Practice and Procedure (Rules), this Scoping Memo and Ruling addresses (1) issues, (2) categorization and ex parte communication, (3) hearing and record, (4) schedule, (5) service list, (6) final oral argument (FOA), (7) intervenor compensation, and (8) Article 2.5.¹ The Commission's Rules are available on the Commission's web site.²

1. Issues

The issues are stated in the preliminary scoping memo within the Order Instituting Rulemaking (OIR, page 7):

¹ See, for example, Rule 6.3 (issues and schedule), Rule 6.5 (categorization and need for hearing), Rule 6.6 (proceedings without hearing), Rule 8(d) (FOA), and Pub. Util. Code § 1804(a)(1) (notices of intent for intervenor compensation).

² On the Commission's web page (<http://www.cpuc.ca.gov/>), click on "Laws, Rules, Procedures."

- a. Do the ratemaking and accounting mechanisms that the Commission proposes to adopt, enable Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas and Electric Company (SDG&E), Southern California Gas Company (SoCalGas) and Southwest Gas Company (Southwest) to account equitably for the consideration they receive under the Settlement?
- b. Are there better alternatives for the Commission to adopt governing how the California natural gas and electric public utilities should account for the consideration they receive under the Settlement?

The Commission's proposed ratemaking and accounting mechanisms are stated in the OIR. In particular, see Chapters IV and V of the OIR (pages 9 – 20).

The "Settlement" refers to several agreements resolving issues concerning high natural gas and electricity prices in California during the 15-month period from March 1, 2000 through May 31, 2001. The high prices were the subject of litigation at the Federal Energy Regulatory Commission (FERC; Docket No. RP00-241-000, et al.), and several matters consolidated at the San Diego Superior Court. Specifically, the "Settlement" consists of:

- a. A settlement filed at FERC on June 4, 2003;
- b. The Master Settlement Agreement, an Allocation Agreement, and separate settlement agreements, filed in San Diego Superior Court on June 26, 2003; and
- c. A Stipulated Judgment which will be filed in the United States District Court for the Central District of California.

The Settlement is between the Governor of the State of California; the California Attorney General; the California Public Utilities Commission; the California Department of Water Resources (CDWR); PG&E; SCE; the Attorneys

General from Nevada, Washington and Oregon; law firms representing plaintiffs in 15 lawsuits; and El Paso Natural Gas Company, its parent corporation and affiliates (El Paso). The Settlement also involves the California Electricity Oversight Board (CEOB), by its proposed resolution of a dispute between the CEOB, the Commission and El Paso concerning El Paso's long-term wholesale power contracts with CDWR.

Most of the consideration that El Paso has agreed to pay to resolve these disputes is provided in the Master Settlement Agreement (which includes the total amount of consideration to be received by utilities under the Commission's jurisdiction). Therefore, this OIR will focus on this aspect of the Settlement.

Specifically excluded from this proceeding are issues concerning the substantive merits of the Settlement, which are issues to be resolved by the San Diego Superior Court and FERC. This proceeding will only consider the Commission's proposed ratemaking and accounting mechanisms, along with ratemaking and accounting proposals offered by parties in initial comments, as well as all other comments and reply comments filed and served by parties.

To the fullest extent reasonably possible, parties should use the same outline for comments, reply comments and other documents and pleadings filed and served in this proceeding. (See Ruling dated July 18, 2003.) This practice promotes understandability, consistency and completeness, and it facilitates replies to opening documents.

2. Categorization and Ex Parte Communication

The Commission preliminarily categorized this proceeding as quasi-legislative. (Rule 6(c)(2); OIR, Ordering Paragraph (OP) 6.) Persons had ten days to object. (OIR, OP 9.) No objections were filed. The categorization of this proceeding is quasi-legislative, and this is the assigned Commissioner's ruling on

category pursuant to Rule 6(c)2. In a quasi-legislative proceeding, ex parte communications are allowed without restriction or reporting requirement. (Rule 7(d).)

3. Hearing and Record

The Commission preliminarily determined that this proceeding does not require evidentiary hearing. (Rule 6(c)(2); OIR, OP 7.) Parties had 10 days to object. (OIR, OP 9.) No objections were filed. No evidentiary hearing is scheduled, and this Scoping Memo is the final determination that no hearing is needed. (Rule 6.6.)

The record will be composed of all filed and served documents, including, but not limited to, comments and proposals filed by August 4, 2003, and reply comments filed by August 14, 2003. The Master Settlement Agreement will be identified effective today as Exhibit No. 1, and is placed in the record. (See OIR, page 2, footnote 1.) The Allocation Agreement (which is related to the Master Settlement Agreement) will be separately identified. It will be marked as Exhibit No. 2 effective today, and is similarly placed in the record.

4. Schedule

The Commission preliminarily determined the schedule. (OIR, OP 8.) Parties had 10 days to object. (OIR, OP 9.) No objections were filed.

No reason is known that requires any adjustment in the schedule. The adopted schedule is consistent with that established in the OIR, and is shown in Attachment A. The goal is to complete this proceeding within four months. (OIR, mimeo., page 22.)

5. Final Oral Argument

A party in a quasi-legislative proceeding has the right to make an FOA before the Commission, if the FOA is requested within the time and manner

specified in the Scoping Memo or later ruling. (Rule 8(d).) If a final determination is made that no hearing is required, Rule 8(d) shall cease to apply, along with a party's right to make an FOA. (Rule 6.6.)

This Ruling is the final determination that no hearing is required. As a result, no right exists for FOA.

6. Service List

The official service list has been prepared by Process Office (based on letters asking that the person or entity be placed on the service list), and is now on the Commission's web page. (OIR, OP 4 and 5.) This Ruling serves as distribution of the official service list. (OIR, mimeo., page 23.) The service list may be retrieved by accessing the following web page:

<http://www.cpuc.ca.gov/proceedings/R0307008.htm>

Paper copies may be obtained by contacting Process Office (phone 415-703-2021.)

An addition or change to the appearance portion of the list should be sought by the filing and service of a motion. Responses to any such motion shall be filed and served within two days of the date the motion is filed. An addition or change to the "state service" or "information only" portions of the list may be sought by mailing a letter directly to Process Office (with a copy on the service list to help facilitate future service).

The service list now on the Commission's web page is the official list. As a result, documents tendered for filing need only include an original and four (not seven) copies. (Rule 2.5.)

The official service list should be used for the filing and service of comments and proposals (August 4, 2003), reply comments (August 14, 2003), and other documents and pleadings. Parties should use the most current service list on the Commission's web page at the time of service of each document.

7. Intervenor Compensation

A customer who intends to seek an award for intervenor compensation must file and serve a Notice of Intent to Claim Compensation within 30 days after the prehearing conference (PHC), or, if no PHC is held, as determined by the Commission. (Pub. Util. Code § 1804(a)(1).) No PHC has been held in this proceeding, and none is scheduled.

Absent a PHC, this ruling will begin the 30-day period. A customer who intends to seek an award of compensation may file and serve a Notice of Intent to Claim Compensation, and that Notice must be filed and served no later than 30 days from the date of this ruling.

8. Article 2.5

The rules and procedures in Article 2.5 cease to apply upon a final determination that no hearing is needed. (Rule 6.6.) This Ruling is the final determination that no hearing is needed. The matters covered in this Scoping Memo shall continue to apply. (Rule 6.6.)

IT IS RULED that:

1. The issues and schedule are as set forth in the body of this ruling and in Attachment A, unless amended in writing by subsequent Ruling or Order.
2. The categorization of this proceeding is quasi-legislative for the purpose of Article 2.5 of the Commission's Rules of Practice and Procedure (Rules).
3. No hearing is scheduled, and this Ruling is the final determination that no hearing is needed.
4. The record shall be composed of all filed and served documents, and shall include the Master Settlement Agreement (Exhibit No. 1) and the Allocation Agreement (Exhibit No. 2).

5. The official service list is now published on the Commission's web page. A paper copy may be obtained by contacting Process Office. Changes to the appearance portion of the service list shall be made by the filing and service of a motion. Responses to any such motion shall be filed and served within two days of the date such motion is filed.

6. A customer who intends to seek an award of intervenor compensation shall file and serve a Notice of Intent to Claim Compensation no later than 30 days from the date of this Ruling.

7. Article 2.5 of the Rules no longer applies to this proceeding, but the matters covered in this Scoping Memo and Ruling shall continue to apply.

Dated July 30, 2003, at San Francisco, California.

/s/ TIMOTHY J. SULLIVAN for
SUSAN P. KENNEDY

Susan P. Kennedy
Assigned Commissioner

ATTACHMENT A

**SCHEDULE
R.03-07-008**

DATE	EVENT
July 10, 2003	Order Instituting Rulemaking (OIR) filed
July 15, 2003	OIR mailed
July 25, 2003	Objections, if any, filed on preliminary categorization, lack of evidentiary hearings, or proposed schedule
July 25, 2003	Letters sent to Process Office and Public Advisor's Office asking to be entered on service list
July 30, 2003	Scoping Memo and Ruling filed and served
August 4, 2003	Initial comments and proposals on ratemaking and accounting rules filed and served
August 14, 2003	Reply Comments filed and served
August 14, 2003	Projected submission date
August 29, 2003	Notice of Intent to Claim Intervenor Compensation filed and served
On or about September 16, 2003	Draft Decision (DD) filed and served
20 days after DD filed and served (e.g., October 6, 2003)	Comments on DD filed and served
5 days after comments filed and served (e.g., October 14, 2003)	Reply Comments on DD filed and served
October 16, 2003	Commission Meeting

(END OF ATTACHMENT A)

CERTIFICATE OF SERVICE

I certify that I have by mail and by e-mail this day served a true copy of the original attached Scoping Memo and Ruling of Assigned Commissioner on all parties of record in this proceeding or their attorneys of record.

Dated July 30, 2003, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TTY# 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.